

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON CATTLEMEN'S  
ASSOCIATION,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY *et al.*,

Defendants.

CASE NO. C19-0569-JCC

ORDER

This matter comes before the Court *sua sponte*. In 2015, Defendants U.S. Environmental Protection Agency (the "EPA") and Army Corps of Engineers (the "Corps") promulgated new regulations that changed the definition of the term "navigable waters" in the Clean Water Act ("CWA"), 33 U.S.C. §§ 1362(7), 1363(12) (the "2015 Rule"). (*See* Dkt. No. 1 at 8–10.) On April 16, 2019, Plaintiff filed a complaint challenging the 2015 Rule and seeking declaratory relief and an injunction barring Defendants from enforcing the 2015 Rule. (*See generally id.*) Plaintiff separately moved for a preliminary injunction. (*See* Dkt. No. 15.)

On September 13, 2019, Defendants filed a notice of final rule. (Dkt. No. 46.) Defendants state that on September 12, 2019, the Administrator of the EPA and the Assistant Secretary of the Corps signed a final rule that: "(1) rescinds the regulation at issue in this matter, the [2015 Rule]; and (2) re-codifies the prior regulatory definition of 'waters of the United States,' as

1 informed by applicable agency guidance documents and consistent with Supreme Court  
2 decisions and longstanding practice.” (*Id.* at 2.) The notice states that “[t]he rule will be  
3 published in the Federal Register and will be effective 60 days thereafter.” (*Id.*)

4 Having considered the notice of final rule and relevant record, the Court hereby  
5 ORDERS the parties to show cause as to why this matter will not be moot once the final rule  
6 rescinding the 2015 Rule becomes effective. Briefs shall not exceed five pages in length and  
7 shall be filed no later than October 18, 2019. The Clerk is DIRECTED to renote Plaintiff’s  
8 motion for a preliminary injunction (Dkt. No. 15) to October 18, 2019.

9 DATED this 8th day of October 2019.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE